

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CARINE M. VOLNY,

Docket No.: 1:20-cv-6083

Plaintiff,

NOTICE OF REMOVAL

-against-

GRM TRANSPORT LIMITED LIABILITY
COMPANY and R. GYOKHAN MUSTAFA

Defendants.
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TO: UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Defendants, GRM Transport Limited Liability Company and Gyokhan R. Mustafa s/h/a R. Gyokhan Mustafa, by and through their attorneys, Kerley, Walsh, Matera & Cinquemani, P.C., state as follows:

1. Upon information and belief, Plaintiff, Carine M. Volny, commenced this personal injury action by filing a Summons and Complaint on or about November 24, 2020 (the “Summons and Complaint”) in the Supreme Court of the State of New York, County of Kings, styled Carine M. Volny v. GRM Transport Limited Liability Company, et al., and bearing Index No. 523531/2020. Annexed hereto as **Exhibit “A”** is a true and accurate copy of the Summons and Complaint.

2. Pursuant to the provisions of 28 U.S.C. §§ 1332(a) and 1441 et seq., Defendants hereby remove this action to the United States District Court for the Eastern District of New York, which is the judicial district in which the action is pending.

NATURE OF THE ACTION

3. Plaintiff, a resident of Kings County, New York, alleges that on June 3, 2019, a vehicle which she was operating came into contact with a vehicle owned and operated by the Defendants. Plaintiff further alleges that the contact of the two vehicle was the result of negligence of the Defendants without any fault of negligence on the part of Plaintiff, and that as a result of said negligence, Plaintiff was caused to suffer serious physical injury as defined under Insurance Law Section 5102(d).

4. The Plaintiff is a resident of the State of New York.

5. Defendant Gyokhan R. Mustafa s/h/a R. Gyokhan Mustafa is now, and at the time of the commencement of the State action, a resident and citizen of the State of New Jersey.

6. Defendant GRM Transport Limited Liability Company, is now, and at the time of the commencement of the State action, a Limited Liability Company registered in State of New Jersey, with its principal place of business located in the State of New Jersey. It does not maintain any offices in the State of New York.

7. Defendant Gyokhan R. Mustafa s/h/a R. Gyokhan Mustafa is the sole member of Defendant GRM Transport Limited Liability Company. At the time of the commencement of the State action, and presently, Defendant GRM Transport Limited Liability Company did and does not have any other members. Before the commencement of the State action, Defendant GRM Transport Limited Liability Company had one additional member, Kevin Costner, who was also a resident and citizen of the State of New Jersey. As such, Defendant GRM Transport Limited Liability Company is a citizen of the State of New Jersey.

8. Upon information and belief, plaintiff seeks monetary damages in excess of \$75,000.00.

IDENTITY OF THE PARTIES

9. According to the Complaint, plaintiff is a resident of the County of Kings, City and State of New York. See Exhibit “A”.

10. Defendants are residents and citizens of the State of New Jersey.

AMOUNT IN CONTROVERSY

11. Based upon Plaintiff’s Complaint and a telephone conversation with Plaintiff’s counsel on December 11, 2020, Defendants have a good faith basis to believe that the damages sought exceed \$75,000.00. If plaintiff stipulates that the amount in controversy is less than \$75,000.00, Defendants will consent to a remand to State Court.

TIMELINESS OF THE REMOVAL

12. Plaintiff filed her Summons and Complaint on or about November 24, 2020.

13. This Notice of Removal is timely filed with this Court within thirty (30) days of the Plaintiff filing the Complaint. 28 U.S.C. § 1446(b)(1). See also, Romulus v. CVS Pharm., Inc., 770 F.3d 67, 72, 2014 U.S. App. LEXIS 20548, 23 Wage & Hour Cas. 2d (BNA) 1190 (1st Cir. Mass. 2014) (Section 1446(b)’s thirty-day clocks are triggered when the plaintiff’s complaint or subsequent paper provides defendant with sufficient information to easily determine that a matter is removable. The defendant has no duty to investigate or to supply facts outside of those provided by the plaintiff.).

PLEA FOR REMOVAL

14. The grounds for removal are diversity of citizenship of the parties and an amount in controversy exceeding the sum specified in 28 U.S.C. § 1332.

15. None of the impediments to removal under 28 U.S.C. § 1445 are present in this action. This Notice of Removal is filed with the Court within thirty (30) days after Plaintiff filed

her Summons and Complaint pursuant to 28 U.S.C. § 1332. As such, defendants request that this matter be removed to the United States District Court for the Eastern District of New York in Brooklyn, New York.

NON-WAIVER OF RIGHTS

16. By filing a Notice of Removal in this matter, Defendants do not waive their rights to object to sufficiency of service of process or lack of personal jurisdiction, and it specifically reserves the right to assert those any other defenses and/or objections to which they may be entitled as a matter of law or equity.

WRITTEN NOTICE OF REMOVAL

17. Notice of this filing is being served on plaintiff's counsel in accordance with 28 U.S.C. § 1446(d), simultaneous with the filing of this pleading.

18. Promptly after filing this Notice of Removal, a true copy will be filed with the Supreme Court of the State of New York, Kings County, in accordance with 28 U.S.C. § 1446(d).

**PLEADINGS, PROCESS AND ORDERS SERVED UPON
DEFENDANTS IN THE STATE COURT ACTION TO DATE**

19. All state court papers served on and by party at the time of removal are annexed hereto as follows: Exhibit "A" Plaintiff's Summons and Complaint.

WHEREFORE, Defendants GRM TRANSPORT LIMITED LIABILITY COMPANY and GYOKHAN R. MUSTAFA s/h/a R. GYOKHAN MUSTAFA, respectfully request that the instant action be removed to this Court from the Supreme Court of the State of New York, County of Kings; that this Court accept jurisdiction of this action; and that this action be placed on the docket of this Court for all further proceedings, as though this action had been originally instituted in this Court.

PLEASE TAKE FURTHER NOTICE THAT defendants GRM TRANSPORT LIMITED LIABILITY COMPANY and GYOKHAN R. MUSTAFA s/h/a R. GYOKHAN MUSTAFA respectfully request a trial by jury of this action pursuant to Fed. R. Civ. P. 38(b).

Dated: Mountainside, New Jersey
December 14, 2020

KERLEY, WALSH, MATERA &
CINQUEMANI, P.C.

By:


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-and (please send correspondence to N.J. office)

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